

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 160
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Short Title: Enhance Safety & Commerce for Ports/Inlets.

(Public)

Sponsors:

Referred to:

March 4, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE DREDGING AND MAINTENANCE OF THE STATE'S
3 WATERWAYS IN ORDER TO ENHANCE SAFETY AND COMMERCE.

4 The General Assembly of North Carolina enacts:

5
6 PART I. SHALLOW DRAFT NAVIGATION FUND AMENDMENTS

7 SECTION 1.(a) G.S. 143-215.73F reads as rewritten:

8 "§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance
9 Fund.

10 (a) Fund Established. – The Shallow Draft Navigation Channel Dredging and Lake
11 Maintenance Fund is established as a special revenue fund. The Fund consists of fees credited
12 to it under G.S. 75A-3, 75A-38, and ~~105-449.126~~105-449.126 and monies contributed by a
13 non-State entity designated for a particular dredging project or group of projects.

14 (b) Uses of the Fund. – Revenue ~~is~~ credited to the Fund may only be used for the
15 following purposes:

16 (1) ~~to~~ To provide the State's share of the costs associated with ~~any~~ a dredging
17 project designed to keep shallow draft navigation channels located in State
18 waters or waters of the ~~state~~ State located within lakes navigable and ~~safe,~~
19 safe.

20 (2) ~~or for~~ For aquatic weed control projects in waters of the State located within
21 lakes under Article 15 of Chapter 113A of the General Statutes. Funding for
22 aquatic weed control projects is limited to five hundred thousand dollars
23 (\$500,000) in each fiscal year.

24 (c) Conditions on Funding. – ~~Any~~ Unless otherwise provided in this subsection, any
25 project funded by revenue ~~from~~ credited to the Fund from the fees described in subsection (a)
26 of this section must be cost-shared with non-State dollars on a one-to-one ~~basis, provided that~~
27 the basis.

28 (1) The non-State cost-share required by this subsection may also be provided
29 by monies contributed to the Fund by a non-State entity.

30 (2) The cost-share for a lake located within a component of the State Parks
31 System shall be provided by the Division of Parks and Recreation of the
32 Department of Environment and Natural Resources. The Division of Parks



1 and Recreation may use funds allocated to the State Parks System for capital
2 projects under G.S. 113-44.15 for the cost-share.

3 (d) Waiver of Cost-Share. – The Secretary may waive or modify the non-State
4 cost-share requirement for dredging projects that (i) alleviate a navigational emergency or (ii)
5 represent an opportunity to supplement or leverage Corps funding that would be lost if a
6 cost-share was required. The Secretary may only waive or modify the non-State cost-share
7 requirement up to an amount not to exceed five hundred thousand dollars (\$500,000) per
8 project.

9 (e) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
10 for a particular project or group of projects may make a written request to the Secretary that the
11 contribution be returned if the contribution has not been spent or encumbered within two years
12 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
13 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
14 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
15 subsection.

16 (f) Reporting. – The Secretary shall report any waivers or modifications of the
17 cost-share requirement made under subsection (d) of this section within 30 days of issuing the
18 waiver or modification to the Joint Legislative Commission on Governmental Operations and
19 the Fiscal Research Division of the General Assembly. The report shall include an explanation
20 of the factors in subsection (d) of this section that are the basis for the waiver or modification
21 decision.

22 (g) Definitions. – For purposes of this section, "~~shallow draft navigation channel~~"
23 meansThe following definitions apply in this section:

24 (1) Corps. – The United States Army Corps of Engineers.

25 (2) Costs associated with a dredging project. – Includes the cost of the dredging
26 operation, surveys or studies directly attributable to the project, and the costs
27 of disposal of dredged material.

28 (3) Navigational emergency. – With respect to a shallow draft navigation
29 channel, the removal of or statement of intent to remove one or more
30 navigational buoys by the United States Coast Guard from the channel due
31 to shoaling.

32 (4) Shallow draft navigation channel. – (i) a ~~A~~ waterway connection with a
33 maximum depth of 16 feet between the Atlantic Ocean and a bay or the
34 Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean
35 through which tidal and other currents flow, or (iii) other interior coastal
36 waterways. "~~Shallow draft navigation channel~~"The term includes the
37 Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,
38 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout
39 Back, channels connected to federal navigation channels, Lockwoods Folly
40 River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet,
41 New River, New Topsail Inlet, Rodanthe, Rollinson, Shallotte River, Silver
42 Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort
43 Harbor."

44 **SECTION 1.(b)** Of the funds appropriated to the Department of Commerce Job
45 Catalyst Fund (Budget Code 14600-1912) for the 2014-2015 fiscal year, the sum of six million
46 dollars (\$6,000,000) shall be transferred to the Shallow Draft Navigation Channel Dredging
47 and Lake Maintenance Fund established pursuant to G.S. 143-215.73F within 10 days of the
48 effective date of this act.

49 **SECTION 1.(c)** Notwithstanding G.S. 143-215.73F, the funds available in the
50 Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund shall be reserved for
51 all of the following purposes:

- 1 (1) The sum of four million dollars (\$4,000,000) shall be reserved for Oregon
2 Inlet dredging needs.
- 3 (2) The sum of one hundred fifty thousand dollars (\$150,000) shall be reserved
4 to reimburse the Department of Administration for its costs associated with
5 exploring options for acquiring Oregon Inlet and the adjacent real property,
6 including, but not limited to, surveys and appraisals, legal research, and
7 studies related to sand management, engineering proposals, and larval
8 transport.
- 9 (3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be
10 reserved to reimburse the Department of Administration for its costs
11 associated with the implementation of Section 14.7(g) of S.L. 2014-100.
12 Upon completion of the actions defined in Sections 14.7(a) through (f) of
13 S.L. 2014-100 by the Secretary of Administration and the federal
14 government, Section 14.7(g) of S.L. 2014-100 is repealed. The Department
15 of Administration shall use the report submitted by the Department of
16 Transportation pursuant to Section 14.7(h) of S.L. 2014-100 and consult
17 with the Department of Transportation when prioritizing condemnation of all
18 existing and future transportation corridors on the Outer Banks, a right
19 retained by the State and recorded in a deed executed on August 7, 1958,
20 when these lands were conveyed to the federal government.
- 21 (4) The sum of two hundred fifty thousand dollars (\$250,000) shall be reserved
22 for use by the Department of Environment and Natural Resources to update
23 the Beach and Inlet Management Plan. The Department may enter into a
24 sole-source contract of up to two hundred fifty thousand dollars (\$250,000)
25 with the firm that developed the initial Plan to have the firm update the Plan.
26 The updated Plan shall include a recommended schedule for ongoing inlet
27 maintenance. No later than December 1, 2016, the Department shall report to
28 the Environmental Review Commission on the updated Plan.

29 The conditions on funding set out in G.S. 143-215.73F(c) may not be waived
30 pursuant to G.S. 143-215.73F(d) for funds reserved for the Oregon Inlet dredging needs set out
31 in subdivision (1) of this subsection. If State funds reserved for the purposes listed above are
32 not spent or encumbered by June 30, 2016, the State funds shall be unreserved and made
33 available for any of the uses set out in G.S. 143-215.73F.

34 35 **PART II. DEEP DRAFT NAVIGATION CHANNEL DREDGING AND** 36 **MAINTENANCE FUND**

37 **SECTION 2.(a)** Article 21 of Chapter 143 of the General Statutes is amended by
38 adding a new Part to read:

39 "Part 8C. Deep Draft Navigation Channel Dredging and Maintenance Fund.

40 **"§ 143-215.73G. Deep Draft Navigation Channel Dredging and Maintenance Fund.**

41 (a) Fund Established. – The Deep Draft Navigation Channel Dredging and Maintenance
42 Fund is established as a special revenue fund. The Fund consists of General Fund
43 appropriations, gifts, or grants, including monies contributed by a non-State entity for a
44 particular dredging project or group of projects and any other revenues specifically allocated to
45 the Fund by an act of the General Assembly.

46 (b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs
47 associated with projects providing safe and efficient navigational access to a State Port,
48 including the design, construction, expansion, modification, or maintenance of deep draft
49 navigation channels, turning basins, berths, and related structures, as well as surveys or studies
50 related to any of the foregoing and the costs of disposal of dredged material.

1 (c) Conditions on Funding. – State funds credited to the Fund from the sources
2 described in subsection (a) of this section must be cost-shared on a one-to-one basis with funds
3 provided by the State Ports Authority, provided that:

4 (1) Funds contributed to the Fund by a non-State entity are not considered State
5 funds and may be used to provide the cost-share required by this subsection.

6 (2) The Secretary may waive or modify the cost-share requirement for any
7 project that supplements Corps funding for a study authorized by the Corps
8 related to navigational access to a State Port, based on availability of
9 alternate funding sources.

10 (d) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
11 for a particular project or group of projects may make a written request to the Secretary that the
12 contribution be returned if the contribution has not been spent or encumbered within two years
13 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
14 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
15 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
16 subsection.

17 (e) Definitions. – The following definitions apply in this Part:

18 (1) Corps. – The United States Army Corps of Engineers.

19 (2) State Port. – Facilities at Wilmington or Morehead City managed or operated
20 by the State Ports Authority."

21 **SECTION 2.(b)** Of the funds appropriated to the Department of Commerce Job
22 Catalyst Fund (Budget Code 14600-1912) for the 2014-2015 fiscal year, the sum of one million
23 dollars (\$1,000,000) shall be transferred to the Deep Draft Navigation Channel Dredging and
24 Maintenance Fund established pursuant to G.S. 143-215.73G, as enacted by this section, within
25 10 days of the effective date of this act.
26

27 **PART III. MEMORANDA OF AGREEMENT**

28 **SECTION 3.(a)** SPA Memorandum of Agreement. – The State Ports Authority
29 shall negotiate with the United States Army Corps of Engineers (hereafter, "Corps") a
30 memorandum of agreement allowing for nonfederal funding of dredging and related studies or
31 maintenance at the State Ports located at Wilmington and Morehead City. The memorandum
32 required by this subsection shall be for as long a term as possible.

33 **SECTION 3.(b)** DENR Memorandum of Agreement. – The Division of Water
34 Resources of the Department of Environment and Natural Resources shall negotiate with the
35 Corps a memorandum of agreement allowing for nonfederal funding of dredging of Oregon
36 Inlet. The memorandum required by this subsection shall be for as long a term as possible.
37

38 **PART IV. ACQUISITION OF FEDERAL LAND FOR PROTECTION OF** 39 **NAVIGATIONAL SAFETY AND COMMERCE**

40 **SECTION 4.(a)** Acquisition Agreement. – Notwithstanding Chapter 146 of the
41 General Statutes or any other provision of law, the Department of Administration, on behalf of
42 the State, shall seek to initiate negotiations with the appropriate agency of the federal
43 government for an agreement to acquire the federally owned property necessary for
44 management of deep draft navigation channels providing access to State Port facilities at
45 Morehead City from the federal government in exchange for State-owned real property. The
46 North Carolina Ports Authority and the Department of Transportation shall be included in the
47 planning and carrying out of these negotiations, but the ultimate approval authority remains
48 solely with the Secretary of the Department of Administration.

49 **SECTION 4.(b)** Terms. – The Secretary of the Department of Administration shall
50 have the authority to negotiate the terms of the acquisition agreement. The agreement (i) shall
51 provide for the acquisition of interests in real property described in subsection (a) of this

1 section and no other; (ii) shall provide that the conveyances described in the agreement become
2 effective as soon as practicable; and (iii) shall incorporate the relevant terms of this section.

3 **SECTION 4.(c)** Execution of Deeds. – Within 30 days of the acquisition becoming
4 effective, the Attorney General shall execute any documents or deeds necessary to effectuate
5 the acquisition under the exact terms set forth in the acquisition agreement. All State agencies
6 and officials shall cooperate to the fullest extent possible in effectuating the acquisition
7 agreement.

8 **SECTION 4.(d)** Reporting. – Within 30 days after an agreement is entered into
9 pursuant to this section, the Secretary of the Department of Administration shall report to the
10 Joint Legislative Commission on Governmental Operations on the terms of the agreement.

11
12 **PART V. REMOVAL OF NAVIGATIONAL OBSTRUCTIONS FOR ECOSYSTEM**
13 **RESTORATION AND PROTECTION OF NAVIGATIONAL SAFETY**

14 **SECTION 5.1.(a)** The General Assembly finds that the New Inlet Dam or "The
15 Rocks" is a breakwater established by the United States Army Corps of Engineers in the late
16 1800s. The New Inlet Dam is composed of two components, a Northern Component that
17 extends from Federal Point to Zeke's Island and a Southern Component that extends
18 southwestward from Zeke's Island and separates the New Inlet from the main channel of the
19 Cape Fear River.

20 **SECTION 5.1.(b)** The General Assembly finds that the Southern Component of
21 the New Inlet Dam impedes the natural flow of water between the Cape Fear River and the
22 Atlantic Ocean that occurred prior to emplacement of the dam.

23 **SECTION 5.1.(c)** The General Assembly finds that it is necessary to remove the
24 Southern Component of the New Inlet Dam in order to reestablish the natural hydrodynamic
25 flow between the Cape Fear River and the Atlantic Ocean.

26 **SECTION 5.1.(d)** To this end, the Department of Environment and Natural
27 Resources shall do all of the following:

- 28 (1) Notify the United States Army Corps of Engineers of the State's intent to
29 remove the Southern Component of the New Inlet Dam.
- 30 (2) Issue a Request for Proposals for a firm capable of conducting all aspects of
31 removal of the Southern Component of the New Inlet Dam, including
32 securing all necessary State and federal permits and developing and
33 implementing a removal plan. Identification of a capable firm pursuant to
34 this section shall be done in accordance with Article 8 of Chapter 143 of the
35 General Statutes.
- 36 (3) Execute a contract with the firm chosen to implement subdivision (2) of this
37 subsection and exercise oversight of the fulfillment of the contract.
38 Execution of a contract pursuant to this section shall be done in accordance
39 with Article 8 of Chapter 143 of the General Statutes.
- 40 (4) Request approval from the National Oceanic and Atmospheric
41 Administration to adjust the boundary established for Zeke's Island for both
42 of the following changes:
 - 43 a. Moving the current western boundary 200 feet seaward and
44 removing the area that lies between the current boundary and the new
45 boundary from the North Carolina National Estuarine Research
46 Reserve.
 - 47 b. Compensating for any loss of acreage pursuant to sub-subdivision a.
48 of this subdivision by adding a corresponding amount of acreage to
49 the northern boundary of Zeke's Island from adjacent acreage at Fort
50 Fisher State Recreation Area.

- 1 (5) If the Department obtains approval from the National Oceanic and
2 Atmospheric Administration to adjust the boundary established for Zeke's
3 Island as described in subdivision (4) of this subsection, the Coastal
4 Resources Commission shall amend 15A NCAC 07O .0105 (North Carolina
5 Coastal Reserve: Reserve Components) as follows:
- 6 a. Definitions. – "Reserve Components Rule" means 15A NCAC 07O
7 .0105 (North Carolina Coastal Reserve: Reserve Components) for
8 purposes of this section and its implementation.
- 9 b. Reserve Components Rule. – Until the effective date of the revised
10 permanent rule that the Coastal Resources Commission is required to
11 adopt pursuant to sub-subdivision d. of this subdivision, the
12 Commission and the Department of Environment and Natural
13 Resources shall implement the Reserve Components Rule, as
14 provided in sub-subdivision c. of this subdivision.
- 15 c. Implementation. – Notwithstanding the Reserve Components Rule,
16 the Commission shall adjust the boundary established for Zeke's
17 Island in conformance with any boundary change that is approved by
18 the National Oceanic and Atmospheric Administration pursuant to
19 subdivision (4) of this subsection.
- 20 d. Additional rule-making authority. – The Commission shall adopt a
21 rule to replace the Reserve Components Rule. Notwithstanding
22 G.S. 150B-19(4), the rule adopted by the Commission pursuant to
23 this subdivision shall be substantively identical to the provisions of
24 sub-subdivision c. of this subdivision. Rules adopted pursuant to this
25 subdivision are not subject to Part 3 of Article 2A of Chapter 150B
26 of the General Statutes. Rules adopted pursuant to this subdivision
27 shall become effective as provided in G.S. 150B-21.3(b1) as though
28 10 or more written objections had been received as provided by
29 G.S. 150B-21.3(b2).
- 30 e. Effective date. – Sub-subdivision c. of this subdivision expires when
31 permanent rules to replace sub-subdivision c. of this subdivision have
32 become effective, as provided by sub-subdivision d. of this
33 subdivision.

34 **SECTION 5.1.(e)** Notwithstanding any other provision of law, the Department of
35 Environment and Natural Resources may use funds from the Deep Draft Navigation Channel
36 Dredging and Maintenance Fund, established pursuant to G.S. 143-215.73G, as enacted by
37 Section 2 of this act, to implement this section.

38 **PART VI. MISCELLANEOUS DREDGING PROVISIONS**

39 **SECTION 6.** G.S. 150B-1(e) is amended by adding a new subdivision to read:

40 "(e) Exemptions From Contested Case Provisions. – The contested case provisions of
41 this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter.
42 The contested case provisions of this Chapter do not apply to the following:

43 ...

44
45 (22) The Secretary of Environment and Natural Resources for the waiver or
46 modification of non-State cost-share requirements under G.S. 143-215.73F
47 and G.S. 143-215.73G."

48 **PART VII. ESTABLISH COASTAL WATERWAYS USER IDENTIFICATION** 49 **NUMBER REQUIREMENT** 50

1 **SECTION 7.1.(a)** Article 1 of Chapter 75A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 75A-5.3. Coastal Waterways User Identification Number required.**

4 (a) Definitions. – As used in this section, "coastal fishing waters" has the same meaning
5 as in G.S. 113-129.

6 (b) Coastal Waterways User Identification Number Required. – All of the following
7 vessels are required to be numbered with a Coastal Waterways User Identification Number
8 issued by the Wildlife Resources Commission:

9 (1) A vessel required to be numbered pursuant to G.S. 75A-4 that is 24 feet or
10 more in length and that is operated in the coastal fishing waters of the State.

11 (2) A vessel that (i) is numbered in accordance with applicable federal law or in
12 accordance with a federally approved numbering system of another state, (ii)
13 is 24 feet or more in length, and (iii) is used to engage in commercial or
14 recreational fishing in the coastal fishing waters of the State under any of the
15 following fishing licenses:

16 a. A Standard Commercial Fishing License issued pursuant to
17 G.S. 113-168.2.

18 b. A Retired Standard Commercial Fishing License issued pursuant to
19 G.S. 113-168.3.

20 c. A Shellfish License issued pursuant to G.S. 113-169.2.

21 d. A Recreational Commercial Gear License issued pursuant to
22 G.S. 113-173.

23 e. A Coastal Recreational Fishing License issued pursuant to
24 G.S. 113-174.2 or G.S. 113-351.

25 f. A For-Hire License issued pursuant to G.S. 113-174.3.

26 (c) Fees. – The annual fee for a Coastal Waterways User Identification Number shall be
27 calculated by rounding down the length of the vessel to the nearest foot, dividing this length by
28 eight, and multiplying the result by the length of the vessel rounded down to the nearest foot.
29 The result of this calculation shall be rounded down to the nearest cent, and this result shall be
30 the dollar amount of the annual fee for each vessel. Notwithstanding this subsection, an annual
31 fee for a Coastal Waterways User Identification Number shall not be greater than the fee for a
32 100-foot vessel. The funds collected pursuant to this section shall be credited on a quarterly
33 basis to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund
34 established by G.S. 143-215.73F.

35 (d) Renewal of Number. – An owner of a vessel issued a Coastal Waterways User
36 Identification Number pursuant to this section shall renew the number on or before the number
37 expires. If the number is not renewed before it expires, it shall lapse and be void until such time
38 as it may thereafter be renewed. Application for renewal shall be submitted on a form approved
39 by the Commission and shall be accompanied by a fee in the amount set forth in subsection (c)
40 of this section.

41 (e) Duplicate Number. – The Commission shall issue a duplicate number for a Coastal
42 Waterways User Identification Number upon application by the person entitled to hold the
43 number if the Commission is satisfied the original number has been lost, stolen, mutilated,
44 destroyed, or has become illegible.

45 (f) Vessel Change of Ownership. – Should the ownership of a vessel with a valid
46 Coastal Waterways User Identification Number change, a new application form with the fee set
47 forth in subsection (c) of this section shall be filed with the Commission by the new owner
48 upon expiration if the new owner intends to use the vessel as described in subsection (b) of this
49 section. Coastal Waterways User Identification Numbers are not transferable from one vessel to
50 another.

1 (g) Duration. – Coastal Waterways User Identification Numbers are valid for a period
2 of 12 months from the date of issuance. Subsequent renewals made before the expiration date
3 of the number are valid the first day after the expiration of the currently valid number.
4 Renewals made after the number expires are valid for a period of 12 months from the date of
5 issuance.

6 (h) Display. – Notwithstanding G.S. 75A-5(k), the Coastal Waterways User
7 Identification Number shall be displayed on each side of the bow of the vessel.

8 (i) Penalty. – A person who fails to obtain and display the Coastal Waterways User
9 Identification Number required by this section is responsible for an infraction as provided in
10 G.S. 14-3.1 and shall pay a fine equal to the amount of the fee for the applicable Coastal
11 Waterways User Identification Number.

12 (j) Rule Making. – The Wildlife Resources Commission shall adopt rules to implement
13 this section."

14 **SECTION 7.1.(b)** G.S. 75A-5.2 reads as rewritten:

15 "**§ 75A-5.2. Vessel agents.**

16 (a) In order to facilitate the convenience of the public, the efficiency of administration,
17 the need to keep statistics and records affecting the conservation of wildlife resources, boating,
18 water safety, and other matters within the jurisdiction of the Commission, and to facilitate
19 vessel transactions, the Commission may conduct vessel transactions through any of the
20 following:

- 21 (1) Vessel agents.
- 22 (2) The Commission's headquarters.
- 23 (3) Employees of the Commission.
- 24 (4) Two or more of those sources simultaneously.

25 (b) When there are substantial reasons for differing treatment, the Commission may
26 conduct vessel transactions by one method in one locality and by another method in another
27 locality.

28 (c) As compensation for services rendered to the Commission and to the general public,
29 vessel agents shall receive the surcharge listed below. The surcharge shall be added to the fee
30 for each certificate issued.

- 31 (1) Renewal of certificate of number – \$3.00.
- 32 (2) Transfer of ownership and certificate of number – \$5.00.
- 33 (3) Issuance of new certificate of number – \$5.00.
- 34 (4) Issuance of duplicate certificate of number – \$3.00.
- 35 (5) Issuance or transfer of certificate of title – \$5.00.
- 36 (6) Issuance of new, duplicate, or renewal Coastal Waterways User
37 Identification Number – \$3.50.

38 "

39 **SECTION 7.2.(a)** The Wildlife Resources Commission shall disseminate
40 information regarding the Coastal Waterways User Identification Number to the public in order
41 to inform affected vessel owners of the Coastal Waterways User Identification Number
42 requirements.

43 **SECTION 7.2.(b)** Notwithstanding G.S. 75A-3, of the funds to be transferred to
44 the Shallow Draft Navigation Channel and Lake Dredging Fund pursuant to G.S. 75A-3, the
45 Wildlife Resources Commission may retain up to two hundred fifty thousand dollars
46 (\$250,000) to implement this section. These funds are hereby appropriated for the 2014-2015
47 fiscal year and shall remain available until expended.

48 **SECTION 7.2.(c)** Subsection (j) of G.S. 75A-5.3, as enacted by Section 7.1 of this
49 act, and Section 7.2 of this act are effective when this act becomes law. All other provisions of
50 Section 7.1 of this act become effective January 1, 2016.

51

1 **PART VIII. DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND ITS**
2 **RULES FOR TEMPORARY EROSION CONTROL STRUCTURES**

3 **SECTION 8.(a)** The Coastal Resources Commission shall amend its rules for the
4 use of temporary erosion control structures to provide for all of the following:

- 5 (1) Allow the placement of temporary erosion control structures on a property
6 that is experiencing coastal erosion even if there are no imminently
7 threatened structures on the property if the property is adjacent to a property
8 where temporary erosion control structures have been placed.
- 9 (2) Allow the placement of contiguous temporary erosion control structures
10 from one shoreline boundary of a property to the other shoreline boundary,
11 regardless of proximity to an imminently threatened structure.
- 12 (3) The termination date of all permits for contiguous temporary erosion control
13 structures on the same property shall be the same and shall be the latest
14 termination date for any of the permits.
- 15 (4) The replacement, repair, or modification of damaged temporary erosion
16 control structures that are either legally placed with a current permit or
17 legally placed with an expired permit, but the status of the permit is being
18 litigated by the property owner.

19 **SECTION 8.(b)** The Coastal Resources Commission shall adopt temporary rules to
20 implement this section no later than December 31, 2015. The Commission shall also adopt
21 permanent rules to implement this section.
22

23 **PART IX. MODIFY USES FOR DARE COUNTY OCCUPANCY TAX**

24 **SECTION 9.** Effective July 1, 2016, for net proceeds collected on or after that
25 date, Chapter 449 of the 1985 Session Laws, as amended by Chapters 177 and 906 of the 1991
26 Session Laws, Part VII of S.L. 2001-439, and Section 7 of S.L. 2010-78, is amended by adding
27 a new section to read:

28 "Sec. 3.3. Waterway Maintenance. – Notwithstanding any provision restricting the use of
29 taxes authorized in this act, the county may use up to three million dollars (\$3,000,000) of the
30 net proceeds of the taxes authorized by Sections 3.1 and 3.2 of this act per fiscal year for
31 maintenance of waterways in the county. This section is repealed for fiscal years beginning on
32 or after July 1, 2021."
33

34 **PART XI. ALLOW COASTAL COUNTIES TO REMOVE ABANDONED VESSELS**
35 **FROM NAVIGABLE WATERS**

36 **SECTION 11.1.** Section 1 of S.L. 2013-182 is repealed.

37 **SECTION 11.2.** G.S. 153A-132 reads as rewritten:

38 **"§ 153A-132. Removal and disposal of abandoned and junked motor vehicles.**

39 (a) **Grant of Power.** – A county may by ordinance prohibit the abandonment of motor
40 vehicles on public grounds and private property within the county's ordinance-making
41 jurisdiction and on county-owned property wherever located. The county may enforce the
42 ordinance by removing and disposing of abandoned or junked motor vehicles according to the
43 procedures prescribed in this section.

44 (b) **Definitions.** – "Motor vehicle" includes any machine designed or intended to travel
45 over land or water by self-propulsion or while attached to self-propelled vehicle.

46 (1) An "abandoned motor vehicle" is one that:

- 47 a. Is left on public grounds or county-owned property in violation of a
48 law or ordinance prohibiting parking; or
49 b. Is left for longer than 24 hours on property owned or operated by the
50 county; or

- 1 c. Is left for longer than two hours on private property without the
2 consent of the owner, occupant, or lessee of the property; or
3 d. Is left for longer than seven days on public grounds.
4 (2) A "junked motor vehicle" is an abandoned motor vehicle that also:
5 a. Is partially dismantled or wrecked; or
6 b. Cannot be self-propelled or moved in the manner in which it
7 originally was intended to move; or
8 c. Is more than five years old and appears to be worth less than one
9 hundred dollars (\$100.00); or
10 d. Does not display a current license plate.

11 (c) Removal of Vehicles. – A county may remove to a storage garage or area an
12 abandoned or junked motor vehicle found to be in violation of an ordinance adopted pursuant
13 to this section. A vehicle may not be removed from private property, however, without the
14 written request of the owner, lessee, or occupant of the premises unless the board of
15 commissioners or a duly authorized county official or employee has declared the vehicle to be a
16 health or safety hazard. Appropriate county officers and employees have a right, upon
17 presentation of proper credentials, to enter on any premises within the county
18 ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are
19 health or safety hazards. The county may require a person requesting the removal from private
20 property of an abandoned or junked motor vehicle to indemnify the county against any loss,
21 expense, or liability incurred because of the vehicle's removal, storage, or sale.

22 When an abandoned or junked motor vehicle is removed, the county shall give notice to the
23 owner as required by G.S. 20-219.11(a) and (b).

24 (d) Hearing Procedure. – Regardless of whether a county does its own removal and
25 disposal of motor vehicles or contracts with another person to do so, the county shall provide a
26 hearing procedure for the owner. For purposes of this subsection, the definitions in
27 G.S. 20-219.9 apply.

- 28 (1) If the county operates in such a way that the person who tows the vehicle is
29 responsible for collecting towing fees, all provisions of Article 7A, Chapter
30 20, apply.
31 (2) If the county operates in such a way that it is responsible for collecting
32 towing fees, it shall:
33 a. Provide by contract or ordinance for a schedule of reasonable towing
34 fees,
35 b. Provide a procedure for a prompt fair hearing to contest the towing,
36 c. Provide for an appeal to district court from that hearing,
37 d. Authorize release of the vehicle at any time after towing by the
38 posting of a bond or paying of the fees due, and
39 e. Provide a sale procedure similar to that provided in G.S. 44A-4,
40 44A-5, and 44A-6, except that no hearing in addition to the probable
41 cause hearing is required. If no one purchases the vehicle at the sale
42 and if the value of the vehicle is less than the amount of the lien, the
43 county may destroy it.

44 (e) and (f) Repealed by Session Laws 1983, c. 420, s. 10.

45 (g) No Liability. – No person nor any county may be held to answer in a civil or
46 criminal action to any owner or other person legally entitled to the possession of an abandoned,
47 junked, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

48 (h) Exceptions. – This section does not apply to any vehicle in an enclosed building, to
49 any vehicle on the premises of a business enterprise being operated in a lawful place and
50 manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an
51 appropriate storage place or depository maintained in a lawful place and manner by the county.

1 (i) A county may by ordinance prohibit the abandonment of vessels in navigable waters
2 within the county's ordinance-making jurisdiction, subject to the provisions of this subsection.
3 The provisions of this section shall apply to abandoned vessels in the same manner that they
4 apply to abandoned or junked motor vehicles to the extent that the provisions may apply to
5 abandoned vessels. For purposes of this subsection, an "abandoned vessel" is one that meets
6 any of the following:

7 (1) A vessel that is moored, anchored, or otherwise located for more than 30
8 consecutive days in any 180 consecutive-day period without permission of
9 the dock owner.

10 (2) A vessel that is in danger of sinking, has sunk, is resting on the bottom, or is
11 located such that it is a hazard to navigation or is an immediate danger to
12 other vessels.

13 Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have
14 been in place for more than 10 years shall not be considered abandoned vessels and shall not be
15 removed under the provisions of this section without the approval of the Department of
16 Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-22
17 and G.S. 121-23. This subsection applies only to the counties set out in G.S. 113A-103(2)."

18 **PART XII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

19 **SECTION 12.1.** If any provision of this act or its application is held invalid, the
20 invalidity does not affect other provisions or applications of this act that can be given effect
21 without the invalid provision or application, and to this end the provisions of this act are
22 severable.
23

24 **SECTION 12.2.** Except as otherwise provided, this act is effective when it
25 becomes law.